

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated July 12, 2007 which has been reviewed and carefully considered. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-17 remain in the Application. Claims 1, 11 and 16 are independent claims.

By means of the present amendment, claims 2-15 and 17 have been amended for non-statutory reasons, such as for better form including beginning the dependent claims with 'The' instead of 'A'. Claims 2-15 and 17 were not amended in order to address issues of patentability and Applicant respectfully reserves all rights under the Doctrine of Equivalents.

In the Office Action, the Examiner objected to the drawing under 37 CFR 1.84(u) because there is a single figure with a single view was labeled "FIG. 1". In response, the "FIG. 1" label has been removed from the figure. Further, the specification has been amended for conformance with the amended figure. Applicant respectfully requests approval of the enclosed proposed drawing

changes and withdrawal of the drawing objection.

In the Office Action, the figure is objected to for not showing a feature of claim 9. In response, claim 9 has been amended to remove the feature. Accordingly, withdrawal of the drawing objection is respectfully requested.

In the Office Action, claims 10 and 11 are objected to for certain informalities. In response, claims 10 and 11 have been amended to remove the informalities noted by the Examiner, as well as other informalities. Accordingly, withdrawal of the objection to claims 10 and 11 are respectfully requested.

In the Office Action, claims 3 and 4 are rejected under 35 U.S.C. §112, second paragraph for lack of antecedent basis. Applicant has amended claims 3 and 4 to provide a proper antecedent basis for the original claim term. Applicant submits that claims 3 and 4 now overcome the rejection under 35 U.S.C. § 112, and respectfully requests reconsideration and withdrawal of this rejection.

Claims 1-8 and 10-16 are rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-5, 7, 11-12 and 14-19 of U.S. Patent No. 6,919,679 ('679). These

rejections are respectfully traversed.

'679, as described on page 1, lines 9-12 and page 2, line 25 to page 3, line 6 of the specification as co-pending patent application Serial No. 10/017,360, is directed to an electric lamp with an alkaline earth metal oxide getter material (see, COL 5, lines 40-45). As stated clearly in numbered paragraph 8 on page 3 of the Office Action, '679 does not disclose a getter material comprising an alkaline earth metal borate or mixtures thereof. The Office Action further states that this getter material is well known in the art states and that the use of the alkaline earth metal borate is merely design choice. The Applicant respectfully disagrees.

At the outset, an alkaline earth metal oxide getter material simply does not disclose or suggest an alkaline earth metal borate getter material. Furthermore, the Office Action has not even made a showing of any reference which refers to a getter material comprising an alkaline earth metal borate as required by claims 1, 11 and 16 of the present application.

Furthermore, the alkaline earth borate getter material required by claims 1, 11 and 16 of the present application is not

merely a matter of design choice, rather, it solves a known problem and does yield unexpected results not within the scope of the claims of patent '679. For example, the specification states on page 6, lines 25-28:

Several other lamps were made using the same procedure but without any borate additives or borate precursor additives... The results showed that in lamps of this invention, arc instability after lamp ignition was virtually eliminated. In contrast, lamps that were not so processed and treated exhibited a substantial period of arc instability after lamp ignition. (Emphasis added)

The above section clearly distinguishes the lamp of the present application from other lamps made without any borate additives or borate precursor additives. It is respectfully submitted having an alkaline earth metal borate getter material in a lamp is not merely a matter of design choice but actually solves a problem and yields an unexpected result not within the scope of the claims of patent '679. Accordingly, it is respectfully submitted that the present invention as recited in claims 1-8 and 10-16 is not obvious over claims 1-5, 7, 11-12 and 14-19 of '679.

In the Office Action, claims 1-17 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,552,665

('665) in view of U.S. Patent No. 3,875,455 (Kaduk). This rejection is respectfully traversed. It is respectfully submitted that the claims are allowable over '665 in view of Kaduk for at least the following reasons.

'665, as discussed on page 1, line 24 to page 2, line 8 of the present application, is directed to an electric lamp having an alumina undercoat layer between a luminescent layer and the lamp envelope to increase light output. As correctly noted on page 8, numbered paragraph 13 of the Office Action, '665 does not disclose a getter material on the surface of the base coat layer which reacts with contaminants present in the lamp, where the getter material comprises an alkaline earth metal borate or mixture thereof. Kaduk is cited in an attempt to remedy the deficiencies in '665.

Kaduk discloses an alkaline earth metal oxide (MgO) undercoat layer between the phosphor and a reflector layer. That is, Kaduk merely shows an MgO undercoat layer.

Alkaline earth metal borate getter materials are simply not mentioned in '665 or Kaduk. '665 or Kaduk, and combinations thereof simply do not disclose or suggest a getter material

comprising an alkaline earth metal borate as required by claims 1, 11 and 16 of the present application. '665 merely shows an alumina undercoat layer and Kaduk merely shows an MgO undercoat layer. At best, the combination of '665 or Kaduk merely shows an undercoat layer with MgO and alumina, rather than a getter material comprising an alkaline earth metal borate as required by claims 1, 11 and 16 of the present application. Furthermore, as discussed previously, the alkaline earth borate getter material required by claim 1, 11 and 16 of the present application does yield an unexpected result and does solve a known problem not within the scopes of '665 and Kaduk.

For all the above reasons, it is respectfully submitted that the present invention as recited in independent claims 1, 11 and 16 are not made obvious by '679, '665, Kaduk and combinations thereof. For example, '679, '665, Kaduk and combinations thereof do not disclose or suggest, a lamp that amongst other patentable elements, comprises (illustrative emphasis provided):

an electric lamp, comprising...a base-coat layer...said base-coat layer comprising a particulate non-fluorescent oxidic material with a getter material on its surface which reacts with contaminants present in the lamp, said

getter material comprising an alkaline earth
metal borate or mixtures thereof

as required by claim 1, and as substantially required by each of claims 11 and 16.

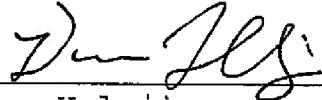
Based on the foregoing, it is respectfully submitted that independent claims 1, 11 and 16 are patentable over '679, '665, Kaduk and combinations thereof alone and notice to this effect is earnestly solicited. Claims 2-10, 12-15 and 17 respectively depend from one of claims 1, 11, and 16 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the

Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By 
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Enclosure: Replacement drawing sheet (1 sheet including FIG)

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